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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/719,438 | 11/21/2003 | Jean Paul Craze | 10022 | 2964 |
| 35420 | 7590 | 11/14/2006 | EXAMINER | |
| MICHAEL P. MAZZA, LLC 686 CRESCENT BLVD. GLEN ELYN, IL 60137 | | | GREENHUT, CHARLES N | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3652 | |

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/719,438 | CRAZE, JEAN PAUL |
| | Examiner | Art Unit |
| | Charles N. Greenhut | 3652 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 September 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 and 12-24 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 and 12-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 July 2006 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/26/06</u> | 6) <input type="checkbox"/> Other: _____ |

I. Information Disclosure Statement

1. Applicant has provided a printout of a web page with the amendment submitted 7/26/06. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) requires the to be must be submitted in a separate paper. Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

II. Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore the “alternate towing apparatus” of claim 19, and the “frame fork attachment” of claim 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. Firstly, figures 13-16 are objected to as containing new matter as discussed below. Secondly, the figures do not comply with 37 CFR 1.83 because they are crowded, extend past the page margins and are not easily reproducible.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be

necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

III. Specification

1. The amendment filed 9/25/06 and 7/26/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The figures 13-16 and corresponding description of the details of the pin and bushing assembly.

Applicant is required to cancel the new matter in the reply to this Office Action.

IV. Claim Objections

1. Claim 12 is objected to as depending from a cancelled claim. For purposes of examination on the merits it is assumed claim 12 should properly depend from claim 9.

V. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-10 and 12-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. The term "rapidly" in claim 1, 6, 19 and 22 is a relative term which renders the claim indefinite. The term "rapidly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

1.2. The term "quickly" in claim 12 is a relative term which renders the claim indefinite. The term "quickly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

VI. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1-6, 8-10, 12-13, and 15-18 is/are rejected under 35 U.S.C. 102(b) as being anticipated by NOLASCO (US 6,139,250 A).

1.1. With respect to claim 1, NOLASCO discloses a transverse cross bar (12d), connected to a boom (11), two receivers (16)/(17) connected to opposing ends of the cross bar (12d), wheel support member (20)/(21) having an elongated arm (20a)/(21a), and a wheel retainer (22)/(23), and powering mechanisms driving horizontal movement (27)/(28).

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- 1.2. With respect to claims 2-5, NOLASCO additionally discloses the apparatus is a self-loading wheel lift, and may be rapidly disassembled to permit conversion to an alternate towing apparatus such as a tow bar with a fork.
- 1.3. With respect to claims 6, and 8-10 and 12, NOLASCO additionally discloses one or more mechanisms facilitating rapid connection and decoupling (e.g., bolt, pin and receiver), hydraulic cylinders (27)/(28) communicating with rods having apertures removably attached to receivers, and a removable locking pin (shown not labeled Fig. 3).
- 1.4. With respect to claims 13, 15-18, NOLASCO additionally discloses the wheel support members comprising an L-arm (20/21) pivotally attached to receivers (at 24/25) by parallel plates (18)/(19), the boom extensible and retractable, hydraulic power and movable ends (16)/(17).

VII. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 7 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over NOLASCO (US 6,139,250 A) in view of KIEFER (US 5,575,606 A).

- 1.1. With respect to claim 7, NOLASCO does not elaborate on the coupling mechanisms. The cam lock including a rotatable handle and spring loaded plunger pin that applicant uses for rapid connection and disconnection is well known and commonly used in the

art to facilitate rapid connection and disconnection of components as illustrated by KIEFER (Figs. 5A-B). It would have been obvious to one of ordinary skill in the art to modify NOLASCO with the mechanism of KIEFER in order to facilitate connection and disconnection.

2. Claim(s) 14 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over NOLASCO (US 6,139,250 A).

2.1. With respect to claim 14, NOLASCO is silent as to what holds the pivot pin in place. Retaining screws are well known and commonly used in the art to hold things in place. It would have been obvious to one of ordinary skill in the art to use a retaining screw in order to hold the pivot pin of NOLASCO in place.

3. Claim(s) 19-24 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over NOLASCO (US 6,139,250 A) in view of PETERSON (US 4,384,817 A).

3.1. With respect to claim 19-24, NOLASCO discloses a transverse cross bar (12d), connected to a boom (11), two receivers (16)/(17) connected to opposing ends of the cross bar (12d), wheel support member (20)/(21) having an elongated arm (20a)/(21a), and a wheel retainer (22)/(23), and powering mechanisms driving horizontal movement (27)/(28). NOLASCO fails to teach rapidly disassembling the wheel lift and replacing it with an alternate towing apparatus. PETERSON teaches rapidly disassembling the wheel lift and replacing it with an alternate towing apparatus (Figs. 9-10). It would have been obvious to one of ordinary skill in the art to modify NOLASCO with the detach and replace step of PETERSON in order to accommodate vehicles requiring a sling for towing and vehicles requiring handling by

engaging an opposed pair of wheels. NOLASCO additionally discloses hydraulic cylinders (27)/(28) communicating with rods having apertures removably attached to receivers, and a self loading wheel lift. NOLASCO additionally discloses in discussion of prior art that fork attachments are known in the art (Col. 2 Li. 57). It would have been obvious to one of ordinary skill in the art to use a fork attachment in order to lift a pallet.

VIII. Response to Applicant's Arguments

Applicant's arguments and affidavits entered 9/25/06 and 7/26/06 have been fully considered.

1. Applicant argues that the objection to the drawings for not showing every feature of the claimed invention is improper with respect to claims 11, 18, 19 and 21. Applicant has overcome the rejection with respect to claim 11 by canceling that claim. Applicant has overcome the objection with respect to claim 12 by amending that claim. Applicant's arguments are persuasive with respect to claim 18. Applicant's argument's are not persuasive with respect to claims 19 and 21. The objection therefore remains in effect with respect to claims 19 and 21. With respect to claims 19 and 21 applicant argues that the claimed features are so well-known they do not need to be shown in a drawing. This argument is not relevant to the requirement of 37 CFR 1.83(a) that the drawings must show every feature of the invention specified in the claims.
2. Applicant has, by amendment, overcome the objection to claim 12 under 37 CFR 1.75(d)(1).
3. Applicant argues that use of the term, "rapidly" in claims 1, 6, 19 and 22 does not render the claims indefinite under 35 USC 112 2nd paragraph. This argument is not persuasive. The fact

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that the term is elaborated on by declaration does not change the fact that the term is one of degree and capable of infinite interpretations and is therefore indefinite.

4. Applicant argues that NOLASCO does not anticipate claim 1 because NOLASCO fails to disclose a device having a wheel lift that may be rapidly disassembled from the cross bar. This argument is not persuasive. As an example, disassembling the NOLASCO wheel lift from the cross bar could be achieved by the removal of the nuts at 35 and the pins connecting the cylinder rods. This may be done rapidly within the broadest reasonable interpretation of that term. NOLASCO therefore meets all the limitations of claim 1.
5. Applicant states that KIEFER fails to disclose powering the L-arms. This statement however does not appear to be relevant to any rejection previously set forth and is therefore not addressed.
6. Applicant alleges unauthorized copying of his invention. While copying may be a secondary consideration of non-obviousness, no argument is presented to that effect. Absent an interference proceeding the Office will not make any factual determinations with respect to that issue.
7. Applicant admits that the alternate towing apparatus of claim 21 are well-known. This does not advance applicants position with respect to the patentability of claim 21.
8. Applicant admits that horizontally movable end portions of claim 18 are well-known. This does not advance applicants position with respect to the patentability of claim 18.
9. Applicant argues that claim 12, as originally filed, is supported by the specification. This argument is moot in light of the present amendment to claim 12 allowing that claim to be interpreted in a manner that finds support in the specification.

IX. Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection of claim 12 presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG



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